

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TEEN MODEL (a minor), by her parents, PARENTS,

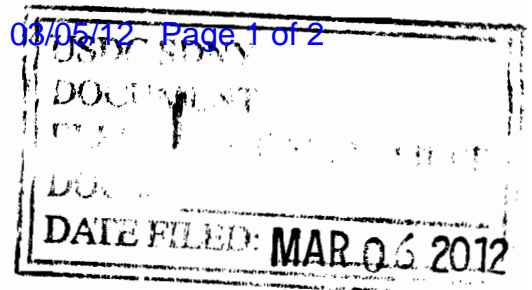
Plaintiffs,

-v-

BLOOD IS THE NEW BLACK, URBAN
OUTFITTERS, INC., and BRANDY & MELVILLE
N.Y. INC.,

Defendants.

ORDER
11 CV 5766 (GBD)



GEORGE B. DANIELS, District Judge:

Defendant Blood Is The New Black ("BINB") moves to dismiss plaintiff's third claim for relief pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. Plaintiff's third claim alleges that defendants improperly used plaintiff's image in violation of New York Civil Rights Laws §§ 50 and 51. BINB argues that because plaintiff has failed to specifically identify the image that is the subject of the alleged misuse, plaintiffs claim is insufficient. Plaintiff, however, has sufficiently alleged use by BINB of an additional image expected to be identified during discovery. Accepting this allegation as true, plaintiff has properly set forth the elements of a claim for improper use of plaintiff's image under the New York Civil Rights Law. Accordingly, BINB's motion to dismiss plaintiff's third claim for relief is DENIED.

Dated: New York, New York
March 5, 2012

SO ORDERED:



GEORGE B. DANIELS
United States District Judge